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ECONOMIC MONOGRAPHS, No. XIII.

HINDRANCES TO PROSPERITY

OR

CAUSES WHICH RETARD FINANCIAL AND
POLITICAL REFORMS IN THE
UNITED STATES

BY

SIMON STERNE

"For your great seats, now quit you of great shames."—SHAKESPEARE.

NEW YORK
PUBLISHED FOR THE N. Y. FREE TRADE CLUB
By G. P. PUTNAM'S SONS
182 FIFTH AVENUE

1879

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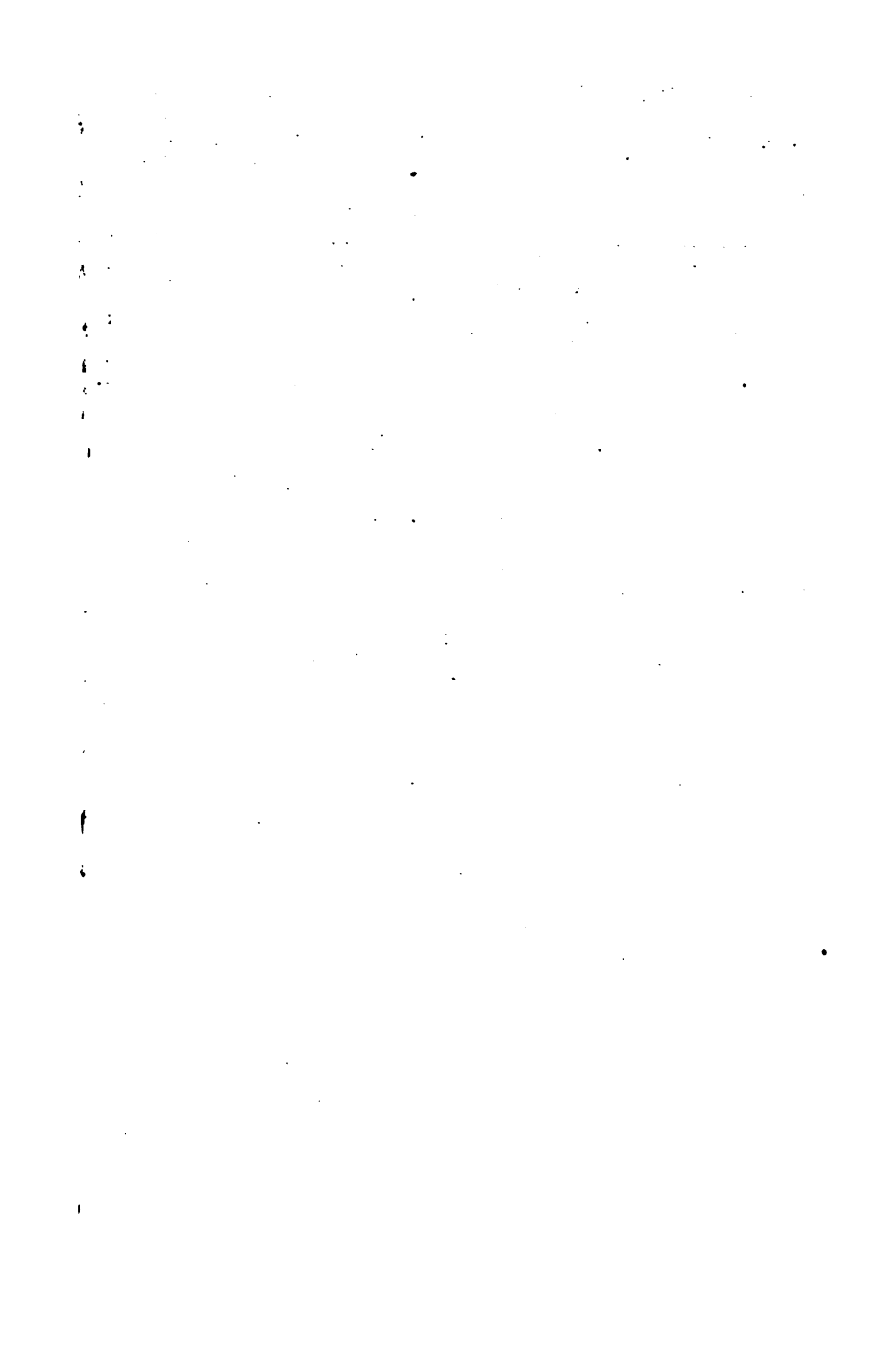


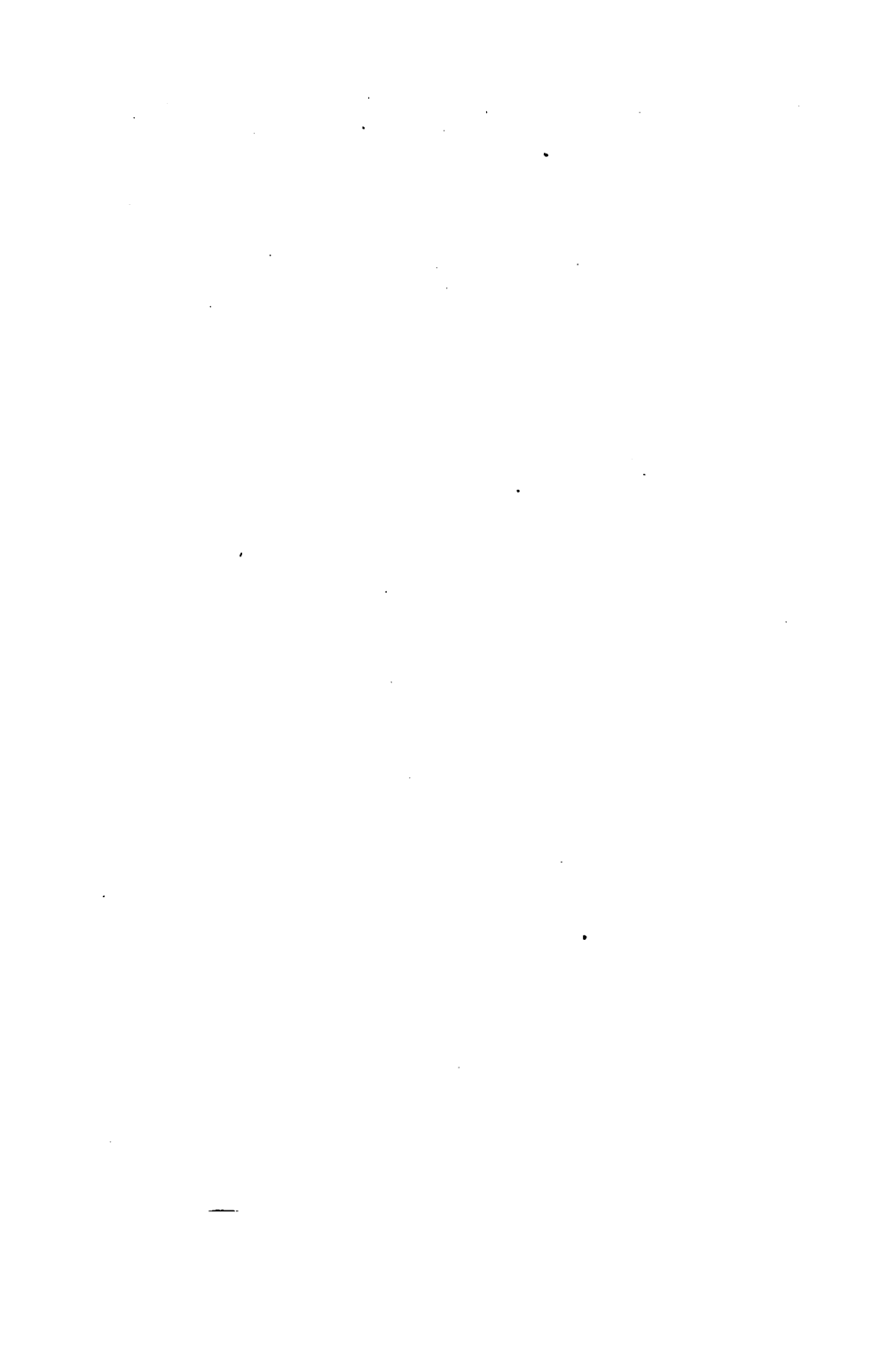
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Simon Sterne

28 Oct. 1895.





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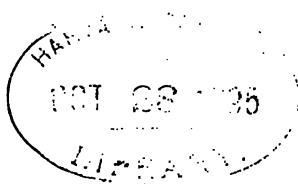
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HINDRANCES TO PROSPERITY;

OR

CAUSES WHICH RETARD FINANCIAL AND POLITICAL
REFORMS IN THE UNITED STATES.*

Mr. President and Gentlemen:

It must appear something like a paradox to my hearers, but I shall maintain, in this address, that in all financial and political reformatory measures, we do not keep pace with our sister nations of Europe.

That the mass of our people is perhaps better fed and clothed than those standing upon the same level abroad, is due to causes quite independent of legislation and politics; but that our people are not better off than we find them, is mainly due to our inaptitude to appreciate and carry out what other nations have done in the way of such reforms.

In every form of society there is, and always has existed, a spirit which desires change, and a *vis-inertiae* which happily resists change of every kind, be it beneficial or otherwise. This conservative element prevents

* An Address delivered on the 21st of November, 1878, before the N. Y. Free Trade Club.

the adoption of change until the community is rightly or wrongly persuaded that it is a reform.

To the extent that we share this spirit with the rest of mankind, we may leave it out of the question. We may equally leave out of the question those vast changes which have been brought about by the application of steam to industrial pursuits and purposes of transportation, and by the application of electricity to the service of society; because rapidly as the wealth of our nation has developed under the stimulus of these great promoters of human industry and multipliers of the results of human effort, we have shared these benefits with the rest of mankind, and have not from these causes alone accumulated wealth either more rapidly, or more largely than other nations.

A glance at the condition of Germany, France and England fifty years ago, and the change and progress which their histories exhibit in administrative, financial and political reforms, in comparison with the political and financial history of the United States during the same period, must yield considerable food for reflection, and to a large degree modify that exultant spirit in which we are so prone to indulge, which attributes to our political methods and institutions that degree of physical and material well-being which is due to our vast extent of territory, our fruitful soil, our admirable climate, our cheap land and the freedom of movement and intercourse between the various states. We were not cursed, at the time of the

organization of our government, with the consequences of long successive generations of caste and class privileges; we had no powerful neighbors, involving the maintenance of large armies; we had no great public debts; the guild system had never taken root in our country; and we had a seemingly exhaustless body of land to draw upon, so that population never for one moment pressed upon the means of subsistence.

How different was the condition of the foremost nations of Europe, at about the beginning of the present century? As to the trades, the guilds had possession of almost all; they had their own courts, and privileges of such a nature that they determined the manner in which the trades were to be conducted and who were to follow them. In Germany no skilled mechanic was permitted to change his residence from one place to another, or even to travel during his years of apprenticeship. The number of bakers, of shoemakers, of watchmakers, was strictly limited, and general freedom to select a vocation would have been regarded as bringing about chaos. These guilds were, during the middle ages, not only great trade organizations, but powerful *imperium in imperio*, as is illustrated by the fact that Philip of Artevelle, the head of the brewers of the Netherlands, brought 60,000 men into the field in favor of Edward III, of England, against the King of France and the Counts of Flanders.

The first change in that particular took place through

the impetus given to thought by Voltaire and the philosophers known as the Encyclopædists and Physiocrats ; for " the freedom of the individual from control of Government " became, through them, a fashionable philosophical doctrine, accepted and preached far beyond the direct influence of French literature.

Stein, the great Minister of Frederick III., followed by the no less fearless but somewhat less philosophical Minister, Hardenberg, under Frederick IV. of Prussia, struck from off the various avocations of men the fetters which the guild system had imposed upon them, and allowed freedom of choice and pursuit of trade and manufacture. This reform progressed between 1810 and 1815, but still, through the whole of Germany,—filled as it was with boundary lines of little principalities, dukedoms and kingdoms, each having its own coinage and its own tariff system,—no wares or merchandise could pass a hundred miles without being subjected to several exactions, each made in a different coin. These tariffs arose in part from mistaken ideas of protection, and in part, from the real or supposed necessities of the reigning prince. This continued until it was found that the various industries of the states were not only not protected, but respectively fell into decay. Industrial distress became general, so that in 1819, at the spring fair of Frankfurt-on-the-Main, between five and six thousand German manufacturers, there gathered, determined upon an organization which set itself the task of abolishing all

internal customs, of establishing free commercial intercourse between the various states of Northern Germany and of sacrificing the supposed advantages of the monopoly of the home market in their respective principalities for the benefits that they expected to reap by a free interchange, within the limits of Germany, of their various products.

They created a union of interests of German manufacturers to conquer a foreign market for themselves, as well as to keep control of their own. This association found favor, first, with Prussia, then with other states of Germany, and gradually resulted in what is known as the Zoll-Verein, which inaugurated a system somewhat analogous to that which exists in this country in the free interchange of commodities between the various states.


In other respects, however, the condition of North Germany was far behind that of the United States, notably, as to taxation; the lands of the nobility of Prussia were exempt; the citizens of their cities had no representatives even in their town councils; serfdom had scarcely been abolished, because there was still personal attachment to the soil in enforced service recognized by law.

In estimating the progress made in Prussia since that period, we must also take into consideration that during the first twenty years of the present century, she was vexed and harried by French wars which drew from her industrial pursuits vast masses of men, and imposed the

burden of their support upon those who remained busily employed.

England was equally depleted and distracted by foreign wars, particularly by the Napoleonic wars,—and, although the guild system had obtained there a different kind of influence from that which prevailed in Germany, that is to say, in England the guilds took possession of the municipal administrations and ceased to control the individual activity of men, (driven therefrom in great part by the interpretation given to the spirit of English laws by Mansfield, Hale and other jurists); yet the corn laws, navigation laws and protective tariff bound the industrial system of England to a very considerable degree to a home market, and prevented a normal extension and development. Parliamentary representation was, to a great degree, under the control of leading landlords; rotten boroughs were an institution; Catholics and Jews were still excluded from parliament; town governments were close corporations; the judicial machinery of the country was in such an inefficient state that an equity suit was a matter of generations, and a law-suit almost involved ruin. Men were hung for sheep-stealing; imprisonment for debt was rigorously imposed; and unfortunate insolvents rotted in private jails, so long as inexorable creditors saw fit to keep them there.

France, from the Peace of Amiens down to 1815, may be said to have been almost continuously at war. The Berlin and Milan Decrees, answered by the English



Orders in Council, had practically destroyed French external commerce and her merchant shipping. Napoleon allowed trading with England only under a special license ; the industries of his country were kept under the most rigorous state control ; monopolies were organized for the purpose of replenishing the public treasury, and every industry was made in some way subservient to either the direct purposes of war or the payment of its expenses.

After the peace of 1815, France, in addition to bearing her own expenses, was compelled to shoulder those of an invading army of 800,000 men, of which 150,000 remained in occupation of frontier fortresses, involving an annual outlay of about 1200 million francs. Foreign trade had so long been lost that it had practically to be recreated ; there was scarcely an export from France, except wines, which she could confidently rely upon to market in other countries.

Contrast the condition of the three foremost nations of Europe at the beginning of the present century with the condition that the same period found us in, and see how enormous were our advantages, as compared with theirs. Take into consideration that almost the whole of the soil of those countries was then actually under cultivation ; and that they were burdened down with debt, monopolies and class interests. We had a virgin soil ; a better climate ; comparatively little debt ; the most fruitful country on the face of the earth ; the then beginning and

future granary of the world ; we soon monopolized the cotton market ; we were a great exporter of tobacco, to which has been added wheat, corn, hay, animal food, and other commodities.

Seventy years have rolled around since then. During that period we have taken actual, physical possession of the whole of our large domain, adding thereto by the purchase of the Louisiana colonies, territory extending us into Missouri and to the Pacific slope ; and we have taken from Mexico a tract which now makes us the richest mining country on the face of the earth.

Now, add the results of the most productive mines of silver and gold to the agricultural products which we create in such abundance as to be able to feed a goodly proportion of the outside world ; nevertheless, in some one way or another, we have so badly managed our vast estate and other people must have so well managed their smaller estates, that the bulk of our population is not now much better off than that of the countries with which we have contrasted them, that we are not individually much richer, and that in the general progress of wealth, comfort and well-being, they, with all their disadvantages, have kept pace with us, notwithstanding all our advantages, and have in many things outstripped us. Even the wages of labor, taking into consideration the purchasing power of such wages, are no higher in this country than in the western countries of Europe. To say that our towns have grown into cities and our

village centres into towns, is to describe a progress not much greater than that which has been made in England. For example, in 1812, Liverpool contained a single newspaper, and the shipping list of that paper consisted of one arrival and two departures, the departures being for Dublin ; its population numbered 90,000 souls ; at present it has daily hundreds of arrivals and departures, with a population of from 800,000 to a million souls.

In 1817, there were in all Lancashire, 2,000 power looms, of which there were but 1,000 in operation. In 1832 the number had increased already to 80,000 in Manchester alone, and there are probably several millions of power looms now in operation in that city. London is said to add to its area a city of the size of New York every fifteen years ; therefore the growth which strikes us as so marvellous is matched by like growths in other countries, and, though they cannot boast of cities like Chicago which spring into existence as great centres of trade in a single generation, yet Newcastle-on-Tyne has had almost as remarkable a history, and fifty years have made as great a change in the transformation of the fishing village of Hull into a great mercantile port, as almost any we can point to on the borders of Lake Michigan.

All the world over, the application of steam and electricity to industrial pursuits and the purposes and needs of man, have produced wealth in single generations, which anteriorly would have compelled the united

industries of a dozen successive generations. That we have taken part in this is but little to our credit. Why have we not done better? And why have not the opportunities placed in our hands in the early part of this century been better improved?

I must insist that we shall leave out of sight the progress that we have made in common with other nations; it is true we have spun net-works of railways; that we have the electric wire carried from our houses to every part of the world; that we have gas and pavements and sewerage, and what not; but then every traveller in Europe, from Stockholm to Athens and from Lands-End to St. Petersburg, meets with the same things and the same appliances.

We had a great inheritance, greater than that with which any nation on the earth was ever blessed; free from the manifold mortgages which encumbered the inheritances of other nations; and the sum total of our activity at the end of seventy years' administration, does not show the results which that vast inheritance would have justified us in anticipating.

To trace the cause of this, is the purpose and object of this lecture.

When our Government was framed, the men who organized it wisely took into consideration the community that they then had to deal with.

A people mainly agricultural, with much leisure and much land, with large interests in the permanent welfare

of the community, could safely be entrusted with the general administration of their own affairs; and all that was to be guarded against was the hampering influence of class interests and special privileges which had done so much to retard the progress of other people, their work was faithfully, well and thoroughly done. Almost all the evils that stood in the way of industrial development and the pursuit of happiness down to that period of time, were successfully guarded against. That the extension of corporations, that the dangers that would arise from the modern system of industry, were not foreseen by the men who framed the organization of our government, is not be imputed to them as a fault. We had not any right to expect them to be demi-gods and have the Cassandra power of looking into the remote future. That the division of employments would so necessitate the application of each individual to his special pursuit, that the politician's work would be differentiated as a special function in the social organism, was also not and could not have been anticipated. That the politicians would form a class which, although not recognized by law as having special privileges, nevertheless obtains them through making the general legislation of the country bend to their purposes by bargaining for and selling such legislation, was also an unanticipated result of dispersing the political power among the States, instead of drawing it to a central head, and in the States dispersing it to the remote corners of municipal institutions. That great

railway corporations would take possession of the administrative machinery of the various States, that they would log-roll with industrial corporations and individuals for the possession of the United States Congress and aid in organizing a protective system which makes, so to speak, every sheep that walks our western prairies a tax-imposer, was a contingency unforeseeable by the men who framed our post-revolutionary institutions, but which with proper statesmanship should have been guarded against in the more recent past.

Having contrasted the condition of France, England and Germany at the beginning of this century, with our own, let us now make a comparison more particularly as to financial and political reforms, and sum up the results.

Prussia, like ourselves, has established a great system of wide popular education, but unlike ourselves, it has transformed a civil service, dependent upon personal favoritism, into a bureaucracy of trained administrators, incorruptible because thoroughly capable, who acquired their position by competitive examinations independent of the favors of Princes or Reichstag. Notwithstanding the exhausting wars to which it has been subjected since the beginning of the century, the maintenance and creation of an army, unequalled since the days of Rome, Prussia has a light public debt as compared with ours ; a moderate tariff as compared with our excessive one ; a freedom as great as our own relative to the internal exchange of

commodities, and a freedom greater than our own in their interchange with foreign nations.

France, notwithstanding the maintenance of a great army, great wars, many changes of government consequent upon revolutions, has progressed in times of peace ; has become a vast exporting nation ; has reduced her tariff ; has created a system of administrative reform which gives her a civil service almost equal to that of Prussia in efficiency and thoroughness ; she has a system of popular education ; has, though compelled to increase rates of taxation, lessened its burdens on each individual by wise distribution ; has inaugurated a liberal interchange of commodities with England by the Cobden-Chevalier treaty of 1860, and, notwithstanding the necessity it was under in 1870 to bear its own burdens of war, and in addition, to pay the expenses of its conqueror, is notwithstanding to-day so prosperous, that we offer no temptation to its multitudes to emigrate hither, and even the emigration to the South American States has been checked. She has so wisely limited the concessions for the building of railways, that in fifty years she will become the recipient of an estate in the way of railway property, representing a value as great as her public debt.

Now look at the strides that England has made ; her administrative civil service has been made so complete, that the Queen herself could not secure the appointment of an under clerk in her foreign office, by any personal influence. England is laden with the care of vast do-

minions, spread far and wide, with an Indian Empire which is a source of constant expense, and involves her in the complications of European politics; yet so wisely have her statesmen administered her affairs, that notwithstanding the Crimean War, colonial wars constantly progressing, and the vast protection she is compelled to afford to her Indian frontier, her public debt is to-day less per capita, than when she emerged from the Napoleonic wars, although the capacity for each man to bear his proportion thereof in England has been quintupled since. By abolishing navigation laws, and the adoption of free trade, she has possessed herself of a very large proportion of the commerce of the world. She has organized a ministerial executive government direct in its responsibility to Parliament, placing the whole function of administration practically in Parliament, leaving to regal power only the show, pomp and ceremony of government. In England, the ministry is more really, more directly responsible to the people as represented in Parliament, than our own executive governments, either state or national, are to the people's representatives in their respective Legislatures and Congress.

England has also organized a scientific system of legislation, the importance of which has never been prominently brought to the attention of this country, and which, in its influence upon the welfare of the English people, must have proved as vastly beneficial to them as the absence of any such system among us has proved

wasteful and baneful in the extreme ! To this system, I shall presently again refer.

England has also established a system of municipal reforms, giving to each city a responsible and excellent city government ; she has organized a judicial system unequalled on earth, making the administration of justice certain, impartial and speedy ; she has instituted universal education ; she has shown a tender care for the young employed in factories, and of sailors, those " children of a larger growth " whom greed or cupidity may send in rotten hulks into dangerous seas ; she is now reforming her code of criminal laws, and, above all, she has brought the monopoly power of great corporations under control through commissions and special courts.

As against these exhibits, the United States have, during the same period of time,—so far as financial and political reforms are concerned,—the following to show. We have abolished slavery and vindicated the national unity and whatever the necessary and inseparable cost of accomplishing these results they were worth paying for. But on the other hand we have " nursed " a vast public debt ; we have made its civil service, which at the beginning of the century was comparatively speaking a decent and proper one, a by-word a reproach and a source of disgrace and humiliation ; stupid, irresponsible and ignorant legislation has confused the sense of right and wrong throughout the country and made uncertain.

its laws; we have nursed navigation laws which have been discredited by every nation of Europe; we have maintained a usury law which has been abandoned by France, England and Prussia as a hindrance to commercial transactions, instead of a benefit; we have fostered a protective tariff; and finally we have placed upon the statute book when, in spite of our vacillating and unphilosophical fiscal legislation the great natural resources of our country had brought our currency to a level with gold, an act which, unless speedily repealed, will once more demonetize gold, give us a depreciated silver currency as the basis of our financial transactions, and place us upon a level below that of Italy, as to our standard of values.

Through the forms of municipal taxation we have legalized confiscation of property; we have organized transportation monopolies too powerful for legislative control, so that they levy taxes at their own sweet wills.

Are we not justified in saying that this is a sorry exhibit; and I ask you now to look with me into some of the causes which have retarded our adoption of financial and political reforms and have caused us, during the last fifty years, to throw overboard some of those financial and political reforms that had been adopted already in the early part of the century. Among these causes are the following:

The character of politics as an occupation. Great cities have arisen at our sea-boards and the growth of a

manufacturing industry, stimulated by a protective tariff and the operations of commerce have made a disproportionately large part of our population urban in character, instead of rural ; to which urban population was added a large element of foreigners, thus ending the homogeneity of our nation as its density increased. Commerce and manufactures, under the stimulus of steam and electricity, carried the division of employments to such an extreme that it may be said with truth that the more skilful and intent a member of society is in his special vocation to supply a particular want, the farther removed does he become from the political thoughts and activity of the day.

On the other hand, the same social differentiation—division of employments and specializing of functions—has caused a class of men to arise, devoting itself to politics as a matter of business ; who have so improved the machinery of politics, so understand its manipulations, and are so dexterous in the pulling of the wires, the creation of a public sentiment, the manipulation of votes, the manipulation of ballots—a system of frauds and devices and guards against frauds and devices of so technical a character)—that it has become a business which involves as much ingenuity and time to acquire as any trade and only a little less than a profession.

The law of the division of employments produces on the one side divorcement from political activity and even political thought on the part of the best and most useful members of society, and on the other hand

creates a special skill, special machinery, special aptitudes, complete organization, and a professional spirit creating a class of politicians, thus making the line of demarkation still more complete, which brings about a condition of affairs that quite unconsciously but effectually divides all the centres of population of this community into two antagonistic classes—a governing class and a governed class, the governing class composed of people generally unfit, or too lazy to devote themselves to the supplying of the useful wants of society, and the governed class being the rest of the community. And at each election this multitude not engaged in politics is driven by the governing class into two camps, and are told to shout aye or no, on one side or the other, and the result is declared to be the vote of the people.

If any one of our citizens will analyze the question for himself by reflecting for a quarter of an hour upon the subject, with a fac-simile of a ballot in his hand, such as he cast at the last municipal election, and ask himself how much he had to do with the nominating of the officers upon the ticket he voted for; what were the issues that brought about such nominations, how much he knew about the fitness of these officers, or whether any of the candidates except the mayor, would by any process of selection have been pointed out as *the* man to run for the office for which he was nominated, and he will come to a realizing sense of how completely machinery has taken possession of what is supposed to be

his own particular volition; that there is nothing left to him on the day of election except the mere registering of a foregone conclusion or a dispute as to conclusions between two or more political chieftains.

This condition of affairs, in which politics has come to be a trade for office and by reason of which, political principles have ceased to be the reasons for political parties and have become the mere pretence upon which they go into action, is one of the most serious drawbacks to the adoption of political reforms in this country. Political parties held together by machinery and under its control, are all mere participants in a struggle for obtaining office and patronage. Hence they are at one and the same time—the most skeptical and the most cowardly of organizations. Nothing new, nothing unpopular, nothing that will involve self-sacrifice, will be advocated or taken up. Remember the course that was pursued in reference to the constitutional amendments relative to cities, to introduce so simple and necessary a reform as to give the veto to the taxpayers upon expenditures which they are to bear. Both political parties avoided them as rocks upon which they were likely to wreck their chances for office. In addition, these political parties will not of course, venture upon anything new; every suggestion of a radical character, or having a tendency to reformation will be looked upon as dangerous, and once get the idea of danger implanted in the minds of these people and they

will decry as *doctrinaire* any suggestion towards a better condition of affairs, and sneer at every man who chooses to think for himself in politics as an impracticable dreamer.

In politics, as in religion, the substitution of machinery for principle, or faith, produces in the one case a struggle for titles, bishoprics and advowsons, instead of a striving for truth—in the other for office, instead of the welfare of the commonwealth. Our election laws have ignored the immense change which the division of employments has brought about and have failed to recognize that the struggle for supremacy now takes place in the nominating convention and primaries instead of at the polls, and that this change requires that the politician's function to nominate, be made amenable to the law, so that all the steps by which nominations are made, shall be as thoroughly and as completely under legal protection as is now the voting at the polls. Coupling responsibility and publicity with the lobby, converts him who was lobbyist into a member of a respectable profession and in the same manner the politician may, by a change in the law, making his function one of responsibility, be converted from a cheating demagogue, into a useful citizen, aiding us for a fixed consideration, if you please, in directing our choice for public officers.

Closely connected with the position of the politician's vocation, as a great impediment to the adoption of financial and political reforms in this country, is the absence

of a scientific method of legislation. To illustrate this fact, we may fairly take what is true of the Legislature of New York as an example. Its duties and methods are prescribed by the constitution, a series of enactments commencing about 1830, and legislation in the way of amplification of subsequent constitutional amendments complete the chapter. The main provisions of the revised statutes in that particular relate to the number of members to be present or necessary to the passage of certain bills, particularly tax-bills; the time when laws shall take effect and the manner of their passage; they specify with great particularity how the laws shall be promulgated, how printed and how authenticated. The mode of taking testimony before the legislative committees is provided for, and quite an important title contains the necessary provisions as to the compensation of members of the Legislature and other officers, and the contingent expenses of the senate and assembly.

This is about all that we possess upon the subject of the manner and method of legislation. The greater part of these enactments were made at a time when the public legislation was not impeded by the pressure of private interests, and when our legislators were composed of different material than the political machines turn out. Railways were in their infancy; life insurances were as yet but rare provisions, and the corporations had not yet, in supplying gas, water, etc., undertaken the performance of the functions and supplying

of the ordinary wants of society, and had by no means reached the overshadowing importance which they have since grown up to. From 1851 to 1865 our legislative halls swarmed with lobbyists clamorous for the passage of special private acts, which had been indiscriminately thrown into the legislative mill, and private law-making had in the hands of venal and ignorant legislators become a trade. There was not only no cabinet responsible for the laws that were passed during any session, but there was not even party responsibility in relation to them. No drafting or examining committee took this body of legislation in charge to see to it that it should conform to some general scheme of jurisprudence, and thirty odd legislatures met, year after year, in all the various capitals of our country, doing precisely the same sort of work. It is true, they would appoint the appropriate committees and then wait until private interests would throw sufficient legislation into their hands for the purpose of carrying on their business; that proved as a general rule sufficiently profitable to enable the legislators to live with a certain degree of comfort from the incomes thus derived in addition to their salaries; and when not, then some particular special interest was attacked by bills which were merely intended for purposes of blackmail, to prevent the passage of which, such special interest might be tempted to pay money. That amid this scramble for special privileges and sale of legislation the general public legislation which was necessary

for harmonizing our law and keeping it abreast of the ideas of the age would be neglected, is a self-evident proposition. As this system became intolerable, a stop was attempted to be put to it in this State by a very inartistically drawn provision of the State constitution adopted in 1875 forbidding the Legislature from passing special or private bills in a large number of enumerated cases, including mainly those which were attended by the most corrupt practices. These provisions were suggested in 1872—they became incorporated into the State constitution of New York in 1875, and have been followed both in language and in spirit in some of the other States of the Union, with a view to extirpate an enormous evil which had become too grievous any longer to be borne; but the Court of Appeals in this State already has, to a considerable degree, undone the work of the constitution-makers by inferentially holding that you may by way of amendment to an existing charter, grant rights which you could not confer by an original grant.

A great mischief which was by some foreseen, but to whose warnings no heed was paid in time, has since come to the surface as a consequence of forbidding private legislation, which will make sad havoc with the little harmonious law that survived the activity of the lobby in favor of private bills. This evil is, that the general law of the land will constantly be amended to meet special cases; and as there is no responsible and


powerful check to prevent such perverse legislation, whenever a case is presented of sufficient magnitude or backed by a sufficiently large interest or by popular clamor, the general law will give way for the purpose of meeting a special requirement. A striking instance of this was a change in the bankruptcy law for the purpose of meeting Jay Cook's case, which made of the general bankruptcy act so intolerably bad a law as ultimately to necessitate its repeal. Instead of adopting this constitutional change limiting the legislative power to pass special laws, it might possibly have been wiser to have followed the methods which the growth of private legislation and its threatened interference with public interests caused England's statesmen to adopt in relation to private bills in Parliament. Such bills are placed upon an entirely different footing from the general public legislation of the land; they are not treated so much as laws, but as decrees rendered after a trial by committees instead of by a court. An inquest is made by the state at the request of individuals or corporations to be followed by concessions to such corporations or by special exemptions only after such an inquest has been held, and all interests to be affected by such legislation have been consulted and the whole expense for the holding of such inquest and for the payment of the machinery of law-making thus set in motion is borne by the applicant for the law. This single step converted England's lobby into a parlia-

mentary bar, requiring of its members the same degree of technical skill and larger intellectual scope and horizon than the Westminster bar, position and eminence in which raises the barrister who achieves them to the title of Queen's counsel and other social distinctions and public consideration that is attainable by a leader of the chancery or of the common law bar.

During a recent visit to England I made it my business to examine with some care into this method of private bills legislation, by personal attendance in committee rooms at the invitation of one of the leaders of that bar, Mr. Pope. The parliamentary bar is composed of two classes—one the parliamentary agent, and the other the parliamentary counsel; the parliamentary agent stands in the same relation to the committees of Parliament that the attorney does in the common law courts to those tribunals. He institutes the proceedings to obtain a private bill. If the clauses of the bill affect either an English, Scottish or Irish interest, notice of the intention to file a bill which affects such interest and the manner in which they are to be affected must be respectively published either in the London, Edinburgh or Dublin Gazette, as the case may be, ninety days before Parliament meets, for six weeks successively.

Sixty days before a meeting of Parliament, the bill must be filed in the private bills bureau of the House of Commons. Notice of the filing of the bill is thereupon sent to all parties interested therein and its filing

number given; so that all parties interested adversely may, with facility, discover and read the special provisions of the bill. With the filing, a deposit is made varying from fifty to one hundred pounds to pay the expenses of the bill in committee. Objections to the bill may thereupon be filed, either to the general clauses, to the object of the bill, called its petition, or, to special provisions therein; or suggestions may be filed as to provisoes, limitations and safeguards which the bill requires. Before the bill is referred to committee, it passes through the hands of examiners. These examiners subject all the steps that the parliamentary agent has taken with reference to the advertising and giving of personal notices, to the same sort of rigid scrutiny that a careful conveyancer subjects a partition or a foreclosure proceeding in the examination of a title, to see to it that all the parties have been brought in or all rights partitioned or foreclosed. All this is done before the bill is referred to committee; of course if any steps have been neglected to be taken, or any fraud has been committed by reason of which the examiners determine that the notice has been intentionally or unintentionally insufficient, they throw out the bill and there is an end of it for that parliamentary session. If, on the other hand, all the preliminary steps have been properly taken, the bill then is put into the hands of a sub-committee, to which it is referred, depending upon the nature of the grant asked for, and, if objections have




been filed, it goes upon the appropriate committee calendar for trial, and the issues raised by the objections are tried with the aid of witnesses, experts and argument as thoroughly as though it were a trial at law. Every detail of the bill is subjected in presence of adverse interests to a critical examination. Herein, of course, the function of the parliamentary counsel has its fullest and largest scope. Before the bill is finally passed upon by the committee, after all objections to it have been disposed of, it is generally referred to a committee of the House of Lords of which Lord Redesdale has been for years its accomplished chairman, to determine whether or not the bill is objectionable on general public grounds; and his and his committee's suggestions are considered quite conclusive as to any special clause in a bill, or as to its general scope, and the bill is amended accordingly, or thrown out. If it is a canal or a railway bill, in addition to the scrutiny already detailed, the bill is submitted to the Board of Trade for its opinion upon the advisability of its adoption; and when it has passed that scrutiny and that of Lord Redesdale's committee, the appropriate committee having it in charge have, as detailed, proceeded with it by recommending its passage, or reporting adversely to the House of Commons; the bill then comes before the house. If it is a bitterly opposed bill, the fight may be made in the Commons or in the Lords upon its passage even after it has passed the scrutiny of the committees; but as a general

rule, the committee's reports are adopted, because the machinery antecedent to its being reported by the committee so rigidly excludes all improper and inharmonious legislation that there is scarcely any chance for its being reported until all such elements have been eliminated from it. After the bill has passed the hands of the committee and is upon the Speaker's desk, if it is of any importance, it is once more subjected to scrutiny (technically by the Speaker,) but actually by parliamentary draughtsmen who are called upon to recast it ; the parliamentary draughtsmen consult on all questions of legal difficulty, both as to form and as to substance, an officer known as the Speaker's Counsel, who is generally selected from among the leaders of the bar—not the parliamentary but Common Law bar. Sir Henry Thring has for many years held this position. The payments for expenses are required to be made, as the bill progresses towards its passage, into the office of the private bills committee until the sum total reaches about two hundred pounds ; these costs are in the way of disbursements to pass a bill. Additional expenditures in the way of counsel fees and parliamentary agents' fees vary of course, with the length of the trial, if there is opposition, and the amount and the importance of the labor that the parliamentary agent or counsel has performed. You will perceive, therefore, that the passage of a private bill is coupled with enormous expense, is surrounded with safeguards which prevent the general public legisla-

tion of the land from being made either subservient to it, or to conflict therewith. Such acts as our rapid transit bills, or street railway grants, which give away valuable franchises on the part of the State without compensation, or sacrifice the property of "A" to the interest of "B," and the profit of the lobby, could not pass. To surround private-bills-legislation with safeguards of this character, is infinitely preferable to passing every conceivable act dictated by special and private interests and then let the courts fish out the constitutional legislation from the unconstitutional kind, or to limit the power of the legislature to pass private bills which, as shown, throws the whole body of general law into confusion. To-day the lobbyist is ensconced at Albany, because private-bills are not properly scrutinized nor separated from public statutes; no special time is set for their passage; and the proposed public statutes have no preference on the calendar such as they have in England.

There the government takes possession of certain days and passes the public measures which are to become law. No private-bills-legislation can encumber the calendar then, and there is a right of way to the royal right of the people to pass their laws ahead of all special private interests. Here, no such thing takes place; the private bills crowd out the public statutes; they take up the time of the committees, because they are pushed—the private bills are pulled through,—and the hundred or one hundred and twenty days of a legislative session

ends with many of the public measures hung up in the air, or not even thought of, but a large quantity of private corn is ground out for private individuals in the shape of laws, because of the activity of the lobby. If the lobbyists, however, were compelled to go before a legislative committee to answer objections, to examine witnesses, to make an argument, the kind of human material now used for lobbying purposes would be found quite inadequate; men of ability and position would not find it derogatory to self-respect to practice before legislative committees, followed as such practice then might be with a success dependent upon ability, such as rewards it before a court of law. Under such a system your lobbyist would suddenly become developed into the lawyer, and private bills would be passed with decency and without detriment to the general public interest. The State of New York to-day represents in its various interests twenty times probably the total wealth of the United States at the time of the formation of this republic. And all the pressure of these vast interests upon the central authority for legislation is a mere scramble for power and for special advantages, too often by indirect and corrupt means. Nothing better stands before us unless we bring to the surface what is now hidden, and formulate it all by method, and by law. This is all done in England by a series of rules, known as standing orders which are reënacted at each session of Parliament, with such amendments as experience suggests.



In the case of railway and tramway bills, there is an impounding of ten per cent. of the amount required to complete the road as security, of which five per cent. is paid back at the time of the passage of the bill and five per cent. is kept as security for the completion of the line, which sum is never paid back if the line is not completed within the time required. Among the important provisions is one that no private bill shall be read a second time after the 11th of June; as Parliament adjourns in August, it will be seen that it is the policy of England to dispose of its private-bills-legislation so that it shall not encumber the latter part of the session when careful attention cannot be paid to it and when public measures are likely to be under discussion and the budget taken up.

You may ask me why has this system not been introduced here and why we, a practical people, allow our legislative time to be thus taken up by special interests, to the exclusion of the consideration of financial and political reforms.

This leads me to the main causes of the obstacles to the adoption of such reforms in our nation. We have no permanent interest so established and intrenched in the government as to make and consider the public weal its own. In all other countries there is such a permanent interest intrenched in the government in some one form or another. In England, which approaches our own most closely, irrespective of the

nobility, and quite apart of the respect that is paid to wealth and the influence of a large, refined and educated leisure class, the government through their system of party responsibility is held strictly accountable for the passage of bad, and is credited with the good and wholesome, measures demanded by the public interest. Our apprehensions of the abuse of the exercise of political power in this country and the fear of its becoming in the hands of one class so overwhelming in its influence as to crush out other interests, has induced us to fritter away all political power either by its subdivision into different departments, functions of government, or dispersing it in the division between state and national authority so that no one power is really distinctly and clearly held responsible for the non-performance of the duty to introduce necessary remedial measures as against evils that have cropped out in the past. No one criticises a governor or a majority in a legislative body, because he or they did not do certain things; scarcely is he or are they criticised for the measures they have passed. One example will suffice: Although this country was brought to the very verge of civil war in 1876, by the inadequate existing machinery for the election of our president, yet two sessions of Congress have been permitted to pass and still we are without any law to prevent the recurrence of such a calamity in the future; no one is held up to blame for this clear neglect of duty; democrats do not charge

this failure upon the republicans in the senate, nor the republicans upon the majority of the democrats of the house that no such measure has been framed or passed. The charge would appear a ridiculous one, as upon no one really devolves the duty of devising, drafting, recommending and securing the passage of such a law.

We have party government in all its evil forms without party responsibility which gives to the party in power the duty of governing well; and that, because of the absence of cabinet responsibility having direct relation to legislation. Our ministers have direct relation to executive functions; the legislative majority are, therefore, without any recognized leadership, both in the State legislatures and in the United States Congress.

In conclusion, I must refer to the fact that our existing system of representation retards the adoption of reformatory measures. The voices of those who really think and reason upon political issues as a result of education, instead of simply feeling upon them as a matter of instinct, cannot make themselves heard and felt in the councils of our nation or state. Our political parties are made up of compromises of almost all principles, so that they strike the average public mind and do nothing to offend it. The cowardice of our political parties, the fear or apprehension that they may say or do something which is likely to offend the crowd, steering constantly in the rocky seas of politics, by the shouts of the voices from the shore, and not by the intelligence and

experience of the pilot not only prevents our parties from initiating drastic, remedial measures, but also leads them to bow to and become subservient to every heresy that blows and every interest that makes itself felt for the time being, lest by not so doing they lose votes.

That this demoralization consequent upon our vicious system of representation can be cured only by changing that system of representation from a majority to a total-ity plan which would act as a dissolvent of political parties, is a truth I have long maintained, but upon which I shall not now dwell at greater length.

To sum up in few words the main causes which prevent the adoption of financial and political reforms with us, they may be said to be our politician class, which is created by the natural law of the division of employments; the vicious organization of our districts which places representation as well as control in the hands of the majority only; the extension of the suffrage to matters of local administration, to which popular elections are not properly applicable; the absence of any large interest that will make head against any special sinister interests which from time to time take possession of our community; the absence of any law regulating and protecting nominations to office; the absence of all scientific and responsible methods of legislation; and, particularly and more especially, the want of a system by which private bills become laws, resulting frequently in making the public statutes of the state yield and bend

and become changed and made subservient to private special interests. Lastly, the absence of a civil service reform—the vast number of federal and state offices being thrown as bones of contention into our periodical strifes, making them struggles for personal power and personal ambition instead of contests for the success of political principles.

If you could disintegrate our political parties, if instead of cabinet executive officers you could create a responsible ministry in national and state legislative halls, so as to throw the responsibility of legislation upon a definite body of men who would become recognized leaders; if you could adopt the English or some analogous system of dividing private from public bills; and if you could confine the voting power to national and state political questions and emancipate the vast mass of voters now excluded from all practical influence because of their belonging to the minority, you would bring about a condition of affairs that would probably lead us to adopt those important elements of success which distinguish the administrations of other countries and enable them by a better distribution of wealth, to overcome the fact that they are far behind us in its creation. We have still to learn that quite as much if not more of human happiness depends upon the skilful distribution of human wealth than upon those bounties of nature which enable us to produce more largely than any nation that has ever existed.

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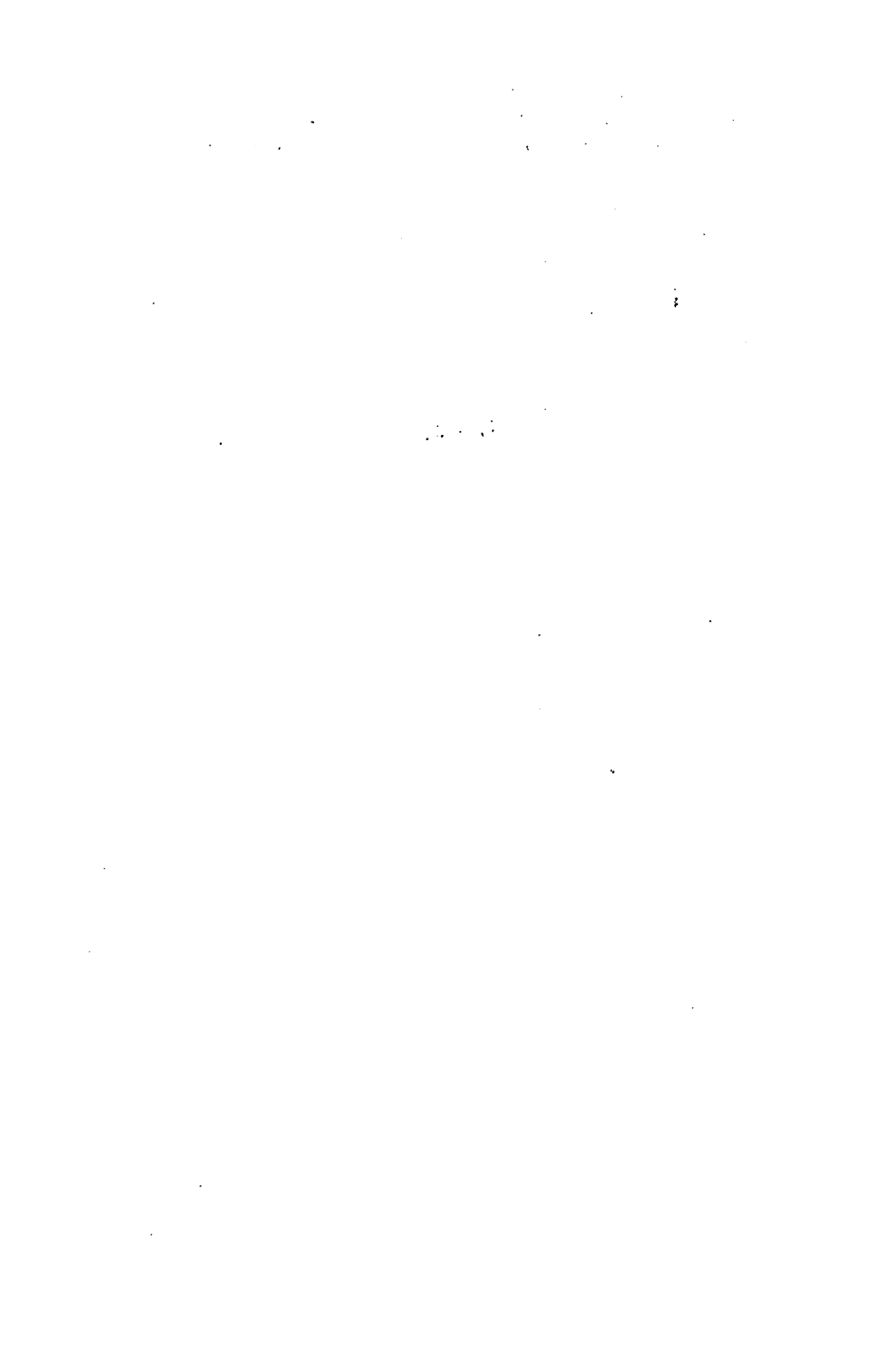
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